

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,
and STATE OF MISSOURI,

Plaintiffs,

v.

THE DOE RUN RESOURCES
CORPORATION,
THE DOE RUN RESOURCES
CORPORATION d/b/a "THE DOE RUN
COMPANY"; and
THE BUICK RESOURCE RECYCLING
FACILITY, LLC,

Defendants.

Civil Action No. 4:10-cv-1895

NADIST, LLC's MOTION TO INTERVENE

COMES NOW Nadist, LLC (hereinafter "Nadist"), by and through its attorneys, Fox Galvin, LLC, and moves to intervene in this matter pursuant to Rule 24(a) of the Federal Rules of Civil Procedure. In support of this motion, Nadist states as follows:

1. Nadist owns land near the Sweetwater Mine and Mill (hereinafter "Sweetwater"). Nadist leases mineral rights under some of that land to The Doe Run Resources Corporation (hereinafter "Doe Run") pursuant to a Mineral Lease. The Mineral Lease requires Doe Run to operate Sweetwater in a responsible manner and in compliance with all applicable environmental statutes and regulations.

2. On June 23, 2010, Nadist filed a lawsuit to require Doe Run to comply with the applicable environmental laws, to require Doe Run to remedy the contamination caused by its

violations of these laws and to enforce the terms of the Mineral Lease. Nadist's lawsuit is styled 04:06-cv-00969-CDP. Since Nadist filed the lawsuit, Nadist has, at great expense, developed a significant body of evidence to support its claims.

3. On June 4, 2008, the State of Missouri moved to intervene in Nadist's lawsuit because of new information provided by Nadist.

4. More than three years after Nadist initiated its lawsuit, Doe Run entered into settlement negotiations with the State and Federal governments. These negotiations culminated in the proposed Consent Decree lodged in this matter.

5. According to Doe Run, entry of the proposed Consent Decree will render many of Nadist's claims moot, thereby undermining Nadist's efforts in its lawsuit and depriving Nadist of its right to both protect its interest in the land it owns and enforce the terms of the Mineral Lease.

6. Nadist seeks to intervene in this action on its own behalf to protect its interests as well as the interests of the general public in a Consent Decree that will effectively address all of the contamination caused by Doe Run's operations at Sweetwater. A copy of Nadist's Complaint in Intervention is attached hereto as Exhibit A.

7. Pursuant to Federal Rule of Civil Procedure 24(a), Nadist has a right to intervene in this action since the statutes at issue confer such a right on Nadist. Further, Nadist has an interest in the Consent Decree and this lawsuit because it owns property near Sweetwater and because the Consent Decree impacts Doe Run's performance under the Mineral Lease. Nadist's ability to protect these interests may be impaired by this litigation.

8. Nadist's property has been contaminated by Doe Run's operations at Sweetwater and the Consent Decree does not adequately address that past contamination or prevent further contamination. To the contrary, if Doe Run's assertions are correct and the Consent Decree

displaces Nadist's claims, Nadist will be unable to protect the value and quality of its own property or enforce its contractual rights. Further, Nadist has a right to recover its attorneys' fees and costs expended to force Doe Run to comply with the environmental statutes at issue in the Consent Decree. Nadist should be allowed to recover those fees and costs in this lawsuit.

9. Nadist's interests are not adequately represented by existing parties because neither the State nor Federal Governments have any commercial property at stake. Further, the Consent Decree by its terms would not prevent further contamination on Nadist's property. Rather, the Consent Decree gives Doe Run the opportunity to release more contaminants into the environment and onto Nadist's property. Obviously the parties to the Consent Decree have not, do not and will not adequately represent Nadist's interests.

10. Nadist's intervention is timely and will not unduly delay or prejudice the rights of the existing parties.

11. In further support of this motion, Nadist incorporates herein by reference the arguments and authority in the Memorandum in Support of Nadist, LLC's Motion to Intervene.

WHEREFORE, for the foregoing reasons and the reasons set forth in Nadist's memorandum in support of this motion, Nadist respectfully requests that the Court enter an order granting Nadist's Motion to Intervene and granting Nadist a right to voice its objections to the Consent Decree.

Respectfully submitted,

FOX GALVIN, LLC

By: /s/ Ryan E. Mohr

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CERTIFICATE OF SERVICE

The undersigned certifies that service was made by means of the Notice of Electronic Filing, this 19th day of November, 2010, to the following counsel of record:

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